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able hypothesis, other than the prisoner's guilt, it is entitled to the same weight as direct testimony.

10. APPEAL AND ERROR—*Instructions—Evidence to support—Presumption.* Where the evidence is not certified to this court by proper bill of exception, it will be presumed that there was evidence before the trial court to support the instructions given by it.

11. INSTRUCTIONS—*Oral explanations*—A trial court may give oral explanations of written instructions, and if the two taken together clearly and accurately state the law, it is sufficient.

12. INSTRUCTIONS—*Jury fully instructed.* It is not error to refuse to further instruct the jury when they have already been fully instructed.

VAN LANDINGHAM V. BUENA VISTA IMPROVEMENT COMPANY.—

Decided at Richmond, December 13, 1900.—*Keith, P:*

1. DELINQUENT LANDS—*Deeds—Right to redeem—Waste—Rents.* A purchaser at a sale of land sold for delinquent taxes cannot acquire a deed thereto within two years after the date of his purchase, and if more than three years elapse after the date of sale, the former owner or a creditor holding a lien on the land may redeem the land at any time before a deed is made or ordered to the purchaser. Such purchaser is liable for waste committed before acquiring a valid deed, and for rents collected.

TURNBULL V. MANN.—Decided at Richmond, December 13, 1900.—

Phlegar, J:

1. CONTRACTS—*Incomplete on face—Delivery—Presumption.* In the absence of evidence to the contrary, the presumption is that a bond naming the obligors but having one more seal than signature was delivered by all who signed it and not that it was delivered by some of them to one, to be by the latter delivered when fully completed. If delivery by all, it is the binding obligation of all, unless, at the time of delivery, the condition upon which it was to become obligatory was made known to the obligor.

2. CONTRACTS—*Incompleteness—Delivery—Presumption.* In the absence of evidence to the contrary, the presumption from an unconditional delivery of an instrument incomplete on its face is that the incompleteness is waived.

3. CHANCERY PRACTICE—*Approving acts of receiver—Collateral attack.* A decree approving the action of a receiver of the court in a case when the court had jurisdiction of the subject-matter and of the parties cannot be attacked in a collateral proceeding, but must remain in force until reversed on appeal or by proper proceedings in that case.

4. JUDICIAL SALES—*Purchaser—Party.* A purchaser at a judicial sale is a party to the suit in which he purchases, and is bound by the decree of sale and subsequent decrees in the cause affecting his interest. He is obliged to pay his purchase money as the court directs and will be protected in so doing.

5. JUDGMENTS—*Collateral attack—Evidence.* A commissioner's deed of real estate, and the decrees of courts of competent jurisdiction under which the deed

was made, are always admissible in an action of ejectment against a stranger to the suit, and cannot be attacked because of irregularities or error in the cause in which they are made.

6. TRUSTS AND TRUSTEES—*Debts secured—Presumption of payment—Statute of limitations.* The presumption of payment of a debt secured by deed of trust arising from the lapse of twenty years is not affected by the passage of the act providing a statute of limitations for trust deeds. Acts 1897-8, p. 516.

NEWPORT NEWS V. BRADFORD.—Decided at Richmond, January 17, 1901.—*Buchanan, J:*

1. NEGLIGENCE—*Ordinary care—What constitutes.* Ordinary care does not require one absolutely to refrain from exposing himself to danger. It does require, however, such watchfulness and precaution to avoid coming into contact with danger as a person of ordinary prudence would use under like circumstances for his own protection in view of the danger to be avoided.

2. STREETS—*Obstruction—Avoidance—Evidence.* Where a person in the lawful use of a highway encounters an obstruction he may attempt to pass it, if it is consistent with reasonable care to do so, and this is generally a question for the jury, depending upon all of the circumstances of the particular case. It is pertinent, however, in connection with other facts, to inquire whether the danger could have been altogether avoided without serious inconvenience, and it is error to refuse to permit such inquiry to be made.

3. STREET RAILWAYS—*Removal of snow—Obstructing streets—Ordinary care.* A street car company, in operating its cars upon a street, has a right to remove snow from its track to another part of the street, but, in doing so, it has no right to bank up the snow so as to make it dangerous to use or cross the street, unless the work of cleaning the track necessarily obstructs passage, and then the company is bound to do all that ordinary care requires in removing the obstruction.

4. STREET RAILWAYS—*Extraordinary snow storms—Obstructing streets—Ordinary care.* Extraordinary care is not required of a street car company to avoid obstructing a street merely because of an extraordinary snow storm. All that is required of such company is ordinary care, but what is ordinary care depends on the facts of the particular case.

5. INSTRUCTIONS—*Objection after verdict.* As a general rule objections to instructions come too late after verdict.

6. CONTRIBUTORY NEGLIGENCE—*All facts and circumstances to be considered.* In determining the fact of contributory negligence on the part of a plaintiff, what others did, and what he thought could be done in the exercise of due care, are facts to be considered. The solution of that question, however, ought not to be made to depend on those two facts alone, but on all the facts and circumstances of the case tending to prove or disprove such contributory negligence.

SMITH AND OTHERS V. THOMAS AND OTHERS.—Decided at Richmond, January 17, 1901.—*Curdwell, J:*

1. CHANCERY JURISDICTION—*Cloud on title—Complainant in possession—Injunction.* An injunction should not be granted to restrain the recordation of a paper